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ABSTRACT

This study describes the timelines established by states for the processes of referral, assessment, eligibility determination, Individualized Education Program development, and placement of students with disabilities in special education. The purposes of the study, based on survey data from 50 states and the District of Columbia, were to summarize recent state policy and to identify areas in policy or practice that lead to variation in timelines across states. Findings indicate that the majority of states do not have separate timelines for each component in the process from referral to placement. For the timeline from referral to placement, 7 states had a total timeline of from 50 to 126 calendar days (median of 90) and 6 states had a total timeline of 40 to 75 school days (median of 53). Factors inherent in each phase of the process that can affect the length of the timelines are discussed. An appendix provides the timeline for each state. (JDD)

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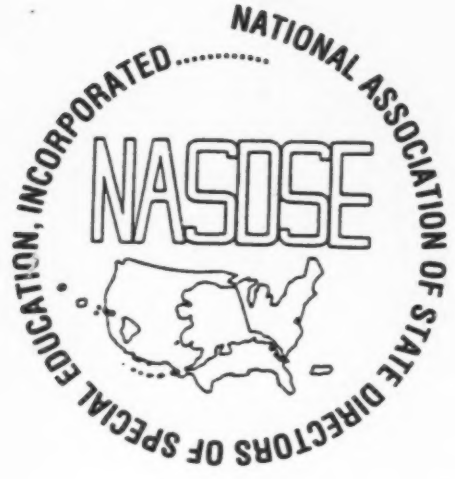
A REPORT ON STATES' TIMELINES IN SPECIAL EDUCATION: REFERRAL THROUGH PLACEMENT



Project FORUM

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A REPORT ON STATES' TIMELINES IN SPECIAL EDUCATION: REFERRAL THROUGH PLACEMENT

There continues to be concern expressed over the adoption of timelines in special education which are both appropriate (i.e., do not deny the timely provision of services) and reasonable given the complexity of procedures such as assessment and IEP development. For example, the District of Columbia has been under court order to adhere to a timeline of 20 calendar days from the time of referral through IEP development with an additional 30 calendar days for placement. This fixed timeline of 50 calendar days is the shortest among all the States. The District of Columbia believes this timeline to be unreasonably short and fails to meet this requirement in too many cases.

Time delays, particularly with respect to initial assessment and placement, are often the subject of complaints by parents and advocates. A review of the *Individuals with Disabilities Education Law Report* for the years 1990 through 1992 revealed eight decisions by the U.S. Department of Education, Office of Civil Rights (OCR) regarding undue delays, primarily in initial student assessment/evaluation. The majority of the decisions went against local school districts. OCR cited "excessive delay" or violation of established State or local timelines[1] in their reports. Although the number of days OCR found to be "excessive" were not always specified, 60 school days from referral to evaluation was considered an unreasonable delay in several of the 90-92 cases.

Most recently, a Federal judge ruled that Indiana officials allowed unreasonable delays to occur in placing students with disabilities in private residential facilities (*Education Daily*, April 29, 1993). In *Evans v. Evans* the plaintiff charged that from 1988 to 1991, Indiana students waited an average of 200 days before being admitted to a private facility, even though their individualized education programs called for such a placement. Although the judge has not yet specified a remedy in this case, the ruling may eventually lead to a voluntary agreement or court order requiring the State of Indiana to speed its placement of students with disabilities.

The regulations for the *Individuals with Disabilities Education Act* (IDEA) specify only one timeline: a meeting to develop the IEP must be held within 30 calendar days of a determination that the child needs special education and related services [34 C.F.R. §300.343(c)]. With respect to placement, the IEP must be implemented **as soon as**

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[1] In one decision (*Vigo County [IN] School Corporation*. 18 IDELR 473), the district explained that the delays in completing initial student evaluations were caused by understaffing and the high number of referrals. OCR held that inadequate staffing levels did not justify delays which exceeded States guidelines by 20 or more days.

possible following the meeting [34 C.F.R. §300.342(b)(2)]. Section 504 of the Rehabilitation Act makes no reference to timelines. Due to the flexibility allowed by applicable Federal law and differing interpretations of "appropriate and reasonable", timelines among the States tend to vary a great deal.

This study describes the timelines established by States for the processes of referral, assessment, eligibility determination, IEP development, and placement of students with disabilities in special education. The purposes of the study are to summarize recent State policy and to identify areas in policy or practice that lead to variation in timelines across States.

Procedure

In December of 1991 data on States' timelines from referral to placement were collected by Dr. David Burket, Associate Superintendent, Division of Special Programs and Alternative Education, Washington, D.C. with the assistance of the National Association of State Directors of Special Education (NASDSE). The data were collected via a survey of State directors of special education. A form was used to summarize the survey information for each State and this information was later verified by 42 States. To complete this analysis, timelines from the remaining States were obtained in March, 1993 using State regulatory documents available at NASDSE. States with widely discrepant timelines in 1991 were re-checked and any changes were noted.

The findings presented comprise aggregated information from 50 States and the District of Columbia. States variously express their timelines in terms of calendar, school, working, and operational days. In fact, 12 States use more than one definition of a "day" depending on the particular timeline. For this analysis, school, working, and operational days are considered equivalent and are hereafter referred to as "school days". Thus, the descriptive statistics to follow were calculated twice, once for timelines using school days and another for timelines expressed in calendar days.

Results and Implications

It is important to note that the majority of States do not have separate timelines for each component in the process from referral to placement (i.e., referral, assessment, eligibility determination, IEP development, and placement). For example, 13 States have a single timeline that extends from the onset of the assessment process through determining eligibility. Additionally, six States have a single timeline beginning at the same point (i.e., assessment), but extending through the IEP process. Seven States have a single timeline for the entire process of referral through placement.

In order to allow a brief discussion of some of the issues that may impact on the length of each timeline, the results from this study are presented separately for each component. Also presented is an analysis of timelines for the entire process. Appendix A provides the timelines, current as of December, 1991, for 50 States and the District of Columbia.

Referral

The exact definition of what constitutes a "referral" to special education varies among States. For some States, the parameters of the process remain undefined. Several factors can influence the length of the referral timeline or the length of the referral process when no timeline is stipulated. A primary factor is the definition of when a referral process begins. For example, does the referral process "officially" begin at the point of first communication concerning a student with a possible disability, or when a building-level team meets to review the case? Depending on their complexity, intermediate steps such as the process of parent notification and the development of an evaluation plan (required by a few States and localities) also could lengthen the timeline.

Twelve States have a specific timeline for the referral process[2]: seven use calendar days and five use "school" days. The range in calendar days for these timelines is from 5 to 30 days. The median[3] number of days is 15. The range in school days is 5 to 25 and the median is 10.

Assessment

Like referral timelines, assessment timelines vary across States apparently due in part to different interpretations as to when the process actually begins. Some State regulations specifically say that the timeline begins at the point when parental permission for evaluation has been received. Conceivably, timelines in these States can be shorter than in States where the assessment timeline begins immediately after referral. An outcome of parent notification of evaluation for special education (and of the placement decision) is that parents may challenge the proposed actions. Further discussion, mediation, and/or due process to resolve disputes can extend the timelines for evaluation and any other stage throughout the entire process.

Six States designate a timeline specifically for the assessment process. Four States use calendar days: the range is 30 to 60 and the median is approximately 53. Two States use a school-day timeline. The length of these timelines are 25 and 45 days, respectively.

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[2] Another 13 States have a timeline that **includes** referral.

[3] The median is the point under which 50 percent of the other scores fall.

Eligibility

In most States the process for determining the eligibility of a child for special education occurs within, or as part of, the assessment or IEP process. Probably the leading factor affecting the length of the timelines covering the eligibility determination process is whether or not a separate interdisciplinary meeting is held for this purpose. In a few States, this meeting is **different from** the IEP meeting.

Only four States specify a distinct timeline for determining eligibility. Two States express this timeline in calendar days, specifically 20 and 30. The timeline for both States using a school-day timeline was 15.

In 13 States, the eligibility determination process is covered by a timeline that also includes assessment. The range was 30 to 80 calendar days for seven States. The median was 45 calendar days. In terms of school days, the range for six States was 30 to 65 with an approximate median of 43. In general, it appears that the timeline from the start of assessment through the determination of eligibility is somewhat shorter for States that have combined these phases into a single timeline than for those that treat them separately.

IEP Development

States that do not have a separate timeline for IEP development typically have broad timelines that include this stage, beginning with referral or assessment. These timelines are brief enough to provide the same protection from undue delay in the development of the IEP as the Federal requirement.

Twenty-one States have adopted separate timelines for the IEP process that equal 30 calendar days in compliance with Federal law. One State has specified 20 school days. Another reasonably common practice is to adopt a combined timeline of 30 calendar days from the IEP through placement - this is the practice in five States.

Placement

With respect to implementing the placement decision of the IEP team, four States have specific calendar-day timelines that range from 10 to 30 days. The median is 15 days. Another seven States use school-day timelines ranging from 5 to 30 with a median of 15. In addition, 20 States have adopted the wording of the IDEA that requires placement "as soon as possible" following the completion of the IEP. This type of wording can accommodate difficulties in locating appropriate programs and services.

As in the case of assessment, some States stipulate that the timelines begin following the receipt of parental permission for placement, other States do not. Nevertheless, delays in receiving parental permission or settling disputes that may arise over the placement decision can affect the accumulated time between the completion of the IEP and placement in most States.

Total Timeline[4] From Referral to Placement

Seventeen States have established one or more timelines that extend from the point of referral through placement. These are strict timelines that do not include terminology such as "as soon as possible" or "immediately". Four of these States have "mixed" timelines that are based on both school and calendar days. Therefore, it is possible to derive total timelines only from the remaining 13 States.

Seven States had a total timeline expressed in calendar days. The range was from 50 to 126 calendar days and the median was 90. Five of these States had a total timeline of 90 calendar days. Six States used a total school-days timeline with a range of 40 to 75 and a median of close to 53 days. The most frequent total school-days timeline was 45, adopted by two States.

Summary

This study describes the timelines established by States for the processes of referral, assessment, eligibility determination, IEP development, and placement of students with disabilities in special education. The timelines from 42 States and the District of Columbia were collected by Dr. David Burket, Associate Superintendent, Division of Special Programs and Alternative Education, Washington, D.C. with the assistance of NASDSE in December of 1991. To complete this analysis, timelines from the remaining States were obtained in March, 1993 using State regulatory documents available at NASDSE.

Appendix A provides the timelines, current as of 12/91, for 50 States and the District of Columbia. The timelines were expressed in either calendar days or school/working/operational days. The median number of days for each phase of the process and the number of States contributing to that median is summarized in Table 1.

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[4] The term, total timeline, would include any or all specific timelines covering referral, assessment, eligibility determination, IEP development, placement, or any combination of these processes.

Discussion of these data centered around factors inherent in each phase of the process from referral to placement that can affect the actual length of the timelines. With respect to evaluation and placement, for example, some States begin timelines for these phases after parental permission is obtained; other States do not make this stipulation. Disputes arising from evaluation and placement decisions can also increase the timelines. These and other factors that precipitate real or perceived delays in the provision of special education services continue to come under scrutiny by parents and professionals.

Table 1

Number of States With a Specific Timeline
and Median Number of Days

Phase	Calendar Days		School Days	
	Number	Median	Number	Median
Referral	7	15	5	10
Assessment	4	53	2	35
Eligibility Determination	2	25	2	15
Assessment & Eligibility	7	45	6	43
IEP Development	21	30	1	–[1]
IEP & Placement	5	30	1	–[1]
Placement	4	15	7	15
Total Timeline	7	90	6	53

[1] A timeline of 20 school days is established for this phase.

APPENDIX A

STATE TIMELINE DATA TABLE

STATE TIMELINE DATA
Collected 12/91

A continuous block across two or more phases indicates a single timeline, or in the case of "NA", no timeline.

State/Document Date	Referral	Assessment	Eligibility	IEP	Placement
Alabama/86	60c			30c	
Alaska/	NA	45s			
Arizona/88	15c	60c		30c	15s
Arkansas/85	21c	60c	30c		15c
California/90	NA	50c**			ASAP
Colorado/87	NA	60s			
Connecticut/80	45s				
Delaware/89	NA	NA		30c	ASAP
District of Columbia/77	20c				30c
Florida/88	NA			30c	ASAP
Georgia/90	90c				
Hawaii/86	20c	80c		30c	ASAP
Idaho/	NA	30c		30c	
Illinois/86	60s				ASAP
Indiana/88	NA	40s			20s
Iowa/90	Set by Area Educational Agencies**			30c	
Kansas/88	NA	40s		30c	ASAP

KEY

c	calendar days
s	school days
op	operational days
w	work days
sw	school working days
aw	administrative working days
NA	State has not set a timeline for this phase of the process

State/Document Date	Referral	Assessment	Eligibility	IEP	Placement
Kentucky/	60s				
Louisiana/87	10op**	60op		30c	10c
Maine/88	NA	60c			ASAP
Maryland/90	30c	45c	30c	30c	30s
Massachusetts/91	5c	45sw			Immediate
Michigan/87	10c	30s			15s
Minnesota/89	NA	30s		30c	ASAP
Mississippi/82	NA	30c		30c	ASAP
Missouri/89	NA	45c		30c	ASAP
Montana/	NA			30c	
Nebraska/88	Reasonable Period			30c	5s
Nevada/	NA			30c	ASAP
New Hampshire/88	15c	45c		30c	ASAP
New Jersey/92	NA	90c			
New Mexico/88	45s**				
New York/90	40sw				30sw
North Carolina/88	90c				
North Dakota/87	NA			30c	ASAP
Ohio/82	120c**				w/o undue delay
Oklahoma/91	NA		15s	30c	Immediate

KEY

c	calendar days
s	school days
op	operational days
w	work days
sw	school working days
aw	administrative working days
NA	State has not set a timeline for this phase of the process

State/Document Date	Referral	Assessment	Eligibility	IEP	Placement
Oregon/90	NA			30c	ASAP
Pennsylvania/90	NA	45s	15s	20s	10s
Rhode Island/88	10s	45s/20s**		20s	
South Carolina/88	NA			30c	ASAP
South Dakota/90	NA	25s	30c		ASAP
Tennessee/90	40s				
Texas/88	60c**		30c		
Utah/89	NA	30c**	NA	30c	ASAP
Vermont/89	NA	45c		30c	
Virginia/90	5aw	65aw		30c	ASAP
Washington/91	25s	35s		30c	ASAP
West Virginia/88	NA	60c	20c	30c	15c
Wisconsin/86	90c**				
Wyoming/92	5w	60w			ASAP

KEY

c	calendar days
s	school days
op	operational days
w	work days
sw	school working days
aw	administrative working days
NA	State has not set a timeline for this phase of the process

** NOTES

**CA Code requires that parents be given, in writing, a proposed assessment plan within 15 days of the referral for assessment.

**IA Timelines for referral through IEP are set by the local Area Education Agencies. Iowa Administrative Code mandates that an IEP be implemented within 30 calendar days following the determination that a pupil requires special education.

**LA Regulations define "operational days" as any day the Louisiana Department of Education is open to conduct public business.

**OH Or 90 calendar days from the receipt of parental permission for evaluation through IEP development, whichever comes first.

**NM "Placement" is interpreted as making an offer to parents.

**RI The 20 school-day timeline for assessment and eligibility is only for students with learning disabilities or speech and language impairment.

**TX Within the 60 calendar timeframe for referral through assessment, the comprehensive assessment must be completed within 30 school days.

**UT From receipt of parent permission for evaluation to the beginning of the evaluation process.

**WI "Placement" means date of offer to parent.